



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 1629-00

7 April 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Career Retirement Credit Report
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the United States Marine Corps Reserve filed enclosure (1) with this Board requesting a correction to her record to show that her last six years of qualifying service for reserve retirement were in the reserve component.

2. The Board, consisting of Mr. Pfeiffer, Mr. Kastner and Mr. Zsalman, reviewed Petitioner's allegations of error and injustice on 28 March 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was honorably discharged from the Marine Corps on 1 December 1990 because she had twice failed of selection to MAJ (O-4). At that time she had completed almost 14 years of active duty and had been credited with 15 years of qualifying service for reserve retirement purposes. The next day she was commissioned in the Marine Corps Reserve. Subsequently, she was promoted to MAJ.

d. The Career Retirement Credit Report (CRCR) at enclosure (2) shows that she has only been credited with membership points in four consecutive anniversary years beginning on 29 July 1991 and ending on 28 July 1995. In 1996 she affiliated with a reserve unit and has earned consecutive qualifying years since

then. On 9 February 1999, Petitioner was informed that since she had twice failed of selection to LTCOL (O-5) and had completed 20 years of commissioned service, her discharge on 1 April 1999 was required by law. However, since she had accumulated 18 years of qualifying service she was being placed in the safety zone so that she could qualify for reserve retirement.

e. The CRCR shows that at the end of her anniversary year on 28 July 1999 she has been credited with 19 years of qualifying service for reserve retirement. However, it also shows that as of that date, she has only been credited with four qualifying years in the reserve component. Under current law the last six qualifying years must be in the reserve component. She is continuing to earn retirement points and, on 28 July 2000, will earn her fifth qualifying year.

f. The Board is aware that when an individual is placed in the safety zone they are given a maximum of three years to earn the two additional years necessary for reserve retirement. Headquarters Marine Corps states that since she completed 20 years of commissioned service on 1 July 1997 the three year safety zone period starts at that time. Therefore, unless she is selected for continuation, she will be discharged on 1 July 2000. The Board is also aware that the requirement that the last six years of qualifying service be in the reserve component is scheduled to revert to eight years which also could impact on her ability to qualify for reserve retirement.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was placed in the safety zone to qualify for retirement only to discover that she would be unable to do so. Since Petitioner continued to earn qualifying years based on erroneous information, the Board concludes that the record should be corrected by transferring 35 retirement points from the excess over 50 in other anniversary years to the anniversary year ending 28 July 1995. With this transfer of points, Petitioner will have over 20 qualifying years of service and, on 28 July 2000, will have the last six qualifying years in the reserve component upon completion of a qualifying year on 28 July 2000, and will be eligible for reserve retirement at age 60.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand her eligibility for retired pay at age 60.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by transferring 35 retirement points from the excess over 50 in other anniversary years to the anniversary year ending 28 July 1995.

b. That this Report of Proceedings be filed in Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director